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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No. CV 10-02161 DDP (FMOx)
)	
Plaintiff,)	
)	
v.)	ORDER DENYING DEFENDANT'S EX
)	PARTE APPLICATION FOR AN ORDER
)	EXTENDING DISCOVERY CUTOFF
THE JANKOVICH COMPANY and)	
LLOYD'S SYNDICATE 1607, in)	
personam,)	[Motion filed on 5/20/11]
)	
Defendant.)	
)	
_____)	

Presently before the court is defendant The Jankovich Company ("Jankovich")'s Ex Part Application for an Order Extending Discovery Cutoff (Dkt. No. 80). Having considered the papers submitted by the parties, the court DENIES the application.

The discovery period in this case closed on December 31, 2010. Jankovich filed its ex parte application almost six months later, on May 20, 2011, arguing that an extension of discovery dates is necessary to allow Jankovich to conduct two depositions in preparation for an August 2, 2011 trial. (Application at 3-4).

A party requesting ex part relief must show (1) that regular motion procedures would irreparably prejudice the applicant and (2)

1 that the applicant "is without fault in creating the crisis that
2 requires ex parte relief." Mission Power Eng'g Co. v. Cont'l Cas.
3 Co., 883 F.Supp. 488, 492(C.D. Cal. 1995). The moving party must
4 demonstrate that "it used the entire discovery period efficiently
5 and could not have, with due diligence, sought to obtain the
6 discovery earlier in the discovery period." Id. at 493.

7 Here, Jankovich knew the identities of the individuals it
8 seeks to depose well in advance of the discovery deadline.
9 Jankovich appears to have relied on an agreement with Plaintiff to
10 conduct discovery beyond the court-imposed deadline of December 31,
11 2010. While the court notes that Plaintiff does not dispute the
12 existence of such an agreement, any such agreement was improper.
13 Even accepting Jankovich's assertions as true, Jankovich knew that
14 Plaintiff would not produce witnesses in accordance with the
15 informal agreement as early as February, 2011, and no later than
16 April, 2011, over one month before Jankovich filed the instant
17 application. (App. at 3). The court therefore concludes that the
18 current crisis is, at least in part, of Jankovich's making.

19 Accordingly, Jankovich's Ex Parte Application for an Order
20 Extending Discovery Cut-Off is DENIED.

21
22 IT IS SO ORDERED.

23
24
25 Dated: June 15, 2011


DEAN D. PREGERSON
United States District Judge